



STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD  
DIVISION OF WATER RIGHTS

License for Diversion and Use of Water

APPLICATION 2705A  
Page 1 of 3

PERMIT 1140

LICENSE 467A

THIS IS TO CERTIFY, That

Kenneth Smith and Tammy Smith  
P.O. Box 931  
Willow Creek, CA 95573

has made proof as of June 20, 1925 (the date of inspection) to the satisfaction of the State Water Resources Control Board of a right to the use of the waters of an Unnamed Spring in Humboldt County

tributary to an Unnamed Stream (AKA Spring Creek) thence Trinity River

for the purpose of Domestic use

under Permit 1140 of the Board and that the right to the use of this water has been perfected in accordance with the laws of California, the Regulations of the Board and the permit terms; that the priority of this right dates from December 27, 1921 and that the amount of water to which this right is entitled and hereby confirmed is limited to the amount actually beneficially used for the stated purposes and shall not exceed (a) four thousand five hundred (4,500) gallons per day to be diverted from May 1 to September 1 of each year and (b) four hundred (400) gallons per day from September 2 of each year to April 30 of the succeeding year. The maximum amount diverted under this license shall not exceed 2.4 acre-feet per year.

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

South 2,260 feet and West 65 feet from N $\frac{1}{4}$  corner of Section 9, T6N, R5E, HB&M, being within SE $\frac{1}{4}$  of NW $\frac{1}{4}$  of said Section 9.

A DESCRIPTION OF THE LANDS OR THE PLACE WHERE SUCH WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:

At residence and grounds within SW $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 9, T6N, R5E, HB&M, as shown on map on file with State Water Resources Control Board.

*Licensee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this license.*

*The quantity of water diverted under this license is subject to modification by the Board if, after notice to the licensee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.*

*Pursuant to California Water Code Sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.*

*This continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirement for the authorized project. No action will be taken pursuant to this reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.*

*The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.*

*Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the Board.*

*The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.*

*This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:*

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the Board.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

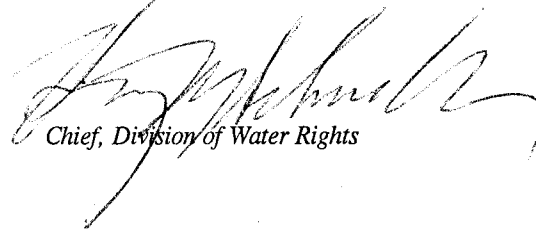
Section 1629. Every licensee, if he accepts a license, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

Dated: **NOVEMBER 13 1938**

STATE WATER RESOURCES CONTROL BOARD



Chief, Division of Water Rights

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

**DIVISION OF WATER RIGHTS**

**ORDER**

Application 2705 Permit 1140 License 467

**ORDER (1) APPROVING CHANGE IN THE PLACE OF USE, (2) DELETING A PURPOSE OF USE, (3) REDUCING THE AMOUNT, (4) ADDING ENDANGERED OR THREATENED SPECIES TERM, (5) REVOKING THE ORIGINAL LICENSE, AND (6) DIRECTING ISSUANCE OF SEPARATE LICENSES**

**WHEREAS:**

1. License 467 was issued to C.L. Filigno and was filed with the County Recorder of Humboldt County on February 26, 1926. License 467 was subsequently assigned to Kenneth Smith and Tammy Smith, Paul Bareilles, and Thomas C. Peterson.
2. A request for division of the license and a petition for a change in the place of use have been filed with the State Water Resources Control Board (SWRCB) on May 28, 1989 and said Board has determined that good cause for such division of the license has been shown.
3. The SWRCB has determined that the petitioned change and the division of the license does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
4. The license term for the continuing authority of the SWRCB should be updated to conform to Section 780(a), Title 23 of the California Code of Regulations.
5. Fish or wildlife species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act.

**NOW, THEREFORE, IT IS ORDERED THAT:**

1. License 467 is hereby revoked upon issuance of Licenses 467A, 467B, and 467C.
2. Separate licenses will be issued as follows:

**License 467A**

Owner: Kenneth and Tammy Smith

Source: An Unnamed Spring tributary to Unnamed Stream (aka Spring Creek) thence Trinity River, in Humboldt County.

Purpose  
of Use: Domestic

Amount: 4,500 gallons per day (gpd)

Season: May 1 to September 1 (4,500 gpd)  
September 2 to April 30 (400 gpd)

Maximum  
Annual  
Amount: 2.4 acre-feet (af)

Point of  
Diversion: South 2,260 feet and West 65 feet from N¼ corner of  
Section 9, T6N, R5E, HB&M, being within SE¼ of NW¼ of said  
Section 9 (California Coordinate System, Zone 1, N 578,000  
and E 1,552,150).

Place  
of Use: Within the SW¼ of NE¼ of Section 9, T6N, R5E, HB&M (Assessor  
Parcel No. 524-201-040).

**License 467B**

Owner: Paul Bareilles

Source: Unnamed Stream (aka Newell Gulch) tributary to Trinity River  
in Humboldt County

Purpose  
of Use: Domestic

Amount: 2,250 gpd

Season: May 1 to September 1 (2,250 gpd)  
September 2 to April 30 (200 gpd)

Maximum  
Annual  
Amount: 1.2 af

Point of  
Diversion: South 825 feet and East 188 feet from N¼ corner of Section  
9, T6N, R5E, HB&M, being within the NW¼ of NE¼ of said  
Section 9 (California Coordinate System, Zone 1, N 579,450  
and E 1,552,150).

Place  
of Use: Within the NW¼ of NE¼ of Section 9, T6N, R5E, HB&M (Assessor  
Parcel No. 524-051-120).

**License 467C**

Owner: Thomas C. Peterson

Source: Unnamed Stream (aka Newell Gulch) tributary to Trinity River  
in Humboldt County

Purpose  
of Use: Domestic

Amount: 4,500 gpd

Season: May 1 to September 1 (4,500 gpd)  
September 2 to April 30 (400 gpd)

Maximum  
Annual  
Amount: 2.4 acre-feet (af)

Point of

Diversion: South 825 feet and East 188 feet from NW $\frac{1}{4}$  corner of Section 9, T6N, R5E, HB&M, being within NW $\frac{1}{4}$  of NE $\frac{1}{4}$  of said Section 9 (California Coordinate System, Zone 1, N 579,450 and E 1,552,150).

Place

of Use: Within the NW $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 9, T6N, R5E, HB&M (Assessor Parcel No. 524-051-100).

3. That Licenses 467A, 467B, and 467C contain all other terms and conditions presently in License 467 or updated versions of License 467 for compliance with State Water Resources Control Board's policy.
4. A continuing authority condition shall be updated and read as follows:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this license including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

5. The addition of endangered or threaten species term to read as:

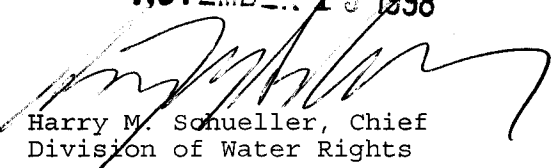
This permit does not authorize any act which results in the taking of a

Application 2705 Permit 1140 License 467  
Page 4

threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain an incidental take permit prior to construction or operation. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(Endangered or Threatened Species Term)

Dated: **NOVEMBER 13 1998**



Harry M. Schueller, Chief  
Division of Water Rights